

Do Women Really Talk More? The Relation Between Gender and Speaking Patterns in the
Federal Court of Appeals for the Ninth Circuit

Research Thesis

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by

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Abstract

The research focuses on the topic of gender-based speech patterns in oral argument in the federal court of appeals for the Ninth Circuit. Previous research indicates that men interrupt women at a higher rate than women interrupt men, and that men overall conversationally dominate women. The thesis analyzes which gender of judges speaks more often, which gender of judges speaks for a longer percentage of time per agreement, and how the gender of the lawyer affects the frequency of their being interrupted. The study includes a sample of 402 video-recorded oral arguments from 2018 that were watched and the relevant variables of judge gender, number of times they spoke, length of time they spoke, the lawyer gender that was interrupted, and the gender composition of the panel were recorded. The results indicate that female judges on the Ninth Circuit do not fall in to the same pattern of male dominated conversations that has held true for other courts and in social science literature. This could indicate a brighter future for women in law and in the workplace more generally.

Introduction

Existing research in the area of gender effects on the federal courts is extremely Supreme Court centered. While it is logical to focus on the most powerful federal court in the country, the rather fixed nature of the panel of the Supreme Court makes the findings less generalizable to other legal relationships between men and women. Having a sample of only nine of the same people makes the study more susceptible to confounds due to an individual justice's personality. The specific male justices on the Supreme Court may be particularly

interruptive, which then would make the results an incorrect reflection of male speech behavior as a whole. Including more judges in the sample reduces the probability that those men chosen were all more interruptive than average. At the Supreme Court level, research is based on the social science literature that found that men interrupt women at a higher rate than women interrupt men. The findings of this body of social science research are discussed in the Supreme Court studies, and are relevant to the federal courts of appeals as well.

The federal courts of appeals hold significant power in the federal court system, yet research on the oral arguments in these courts is sparse. A step below the Supreme Court, the federal appellate courts are where a case would be heard on appeal from the federal district courts. The only place for a case to go after the federal appellate courts would be the Supreme Court, giving the federal appellate courts a large amount of power as they have the last ruling on thousands of cases. Since the Supreme Court turns down 99% of all petitions for hearings, the federal appellate courts are almost always the deciding body on federal issues.

There are thirteen federal appellate courts, one for each circuit in the country. Unlike the Supreme Court where there is a panel of nine more-or-less fixed justices for every case, the federal appellate courts employ a varying range of judges in each circuit. The largest federal appellate court, the Ninth Circuit, has twenty-nine authorized judgeships while the smallest federal appellate court, the First Circuit, has only six authorized judgeships. The average size of a federal appellate court is around twelve judges, all of which rotate to make up varying compositions of case panels. The panel for federal appellate court cases is comprised of any three of the circuit judges. Judges are typically randomly assigned to panels; the set of cases that is assigned to each panel is typically random as well. The randomization of the panels and

cases allows for greater external validity of research results, as previously mentioned when discussing issues with focusing research solely on the Supreme Court. The federal appellate courts utilize oral arguments to hear cases much like the Supreme Court, however, the time allocated to each side varies and is often not enforced as strictly as it is at the Supreme Court level. While the federal appellate courts decide all appeals brought to them, they only hold oral arguments for cases they deem necessary.

The Ninth Circuit Appellate Court encompasses the states of Alaska, Washington, Oregon, Idaho, Montana, Nevada, Arizona, California, and Hawaii. It is the largest of the thirteen federal appellate courts and employed forty-two judges, including senior judges, at the time of this study. Senior judges are judges who have earned the right to senior status. Senior status is a form of semi-retirement where judges still receive a salary, but often hear a smaller case load and their seats become vacant. Achieving senior status is somewhat complex. Judges must be at least sixty-five years of age and have a minimum of ten years of service in the federal courts. However, the age and number of years of service must add up to eighty.

Of the forty-two judges on the Ninth Circuit in 2018, thirteen were female and twenty-nine were male. Being on the west coast of the country, the Ninth Circuit has a history of being a left leaning court with twenty-six of the forty-two judges included in this study being appointed by Democratic presidents and sixteen of the judges being appointed by Republican presidents. The choice to focus on the Ninth Circuit Appellate Court is in part based on the vast amount of data that was available due to it being the largest federal appellate court.

Also due to its size, the Ninth Circuit has the most cases taken up by the Supreme Court of all of the federal appellate courts, making it extremely relevant to federal law. An additional

factor in this choice was that the Ninth Circuit is the only federal appellate court to use video recordings to document its oral arguments. The video recordings allowed for a more accurate data collection method to be implemented in order to achieve the clearest and most reliable results, reinforcing the choice to focus on the Ninth Circuit.

Let it be noted that in the context of this research as well as the research that has been cited, the only genders present were cisgender men and cisgender women. The presence of other genders such as transgender or non-binary individuals may influence the results, but at this time there is not enough information on this topic nor was it in the scope of my research for this particular thesis. Further research should be conducted in this area to contribute to the literature.

Background

Previous research existed in the areas of both judge interruptions and gendered speaking patterns. I drew upon both areas to formulate the hypotheses as well as the research model and method. With regard to judges' speaking styles and patterns, this research was influenced chiefly by the Jacobi and Schweers article "Justice, Interrupted: The Effect of Gender, Ideology and Seniority at Supreme Court Oral Arguments" (2017). Their article outlined an issue that I wanted to explore more deeply through my research: the differences in speaking styles between male and female judges. I used the Supreme Court study as a starting point for court-based research on this topic and then delved deeper in to the psychology of gendered differences in speaking patterns, drawing upon the references in Jacobi and Schweers' work.

Social science literature has identified gender biases in male speaking patterns in law and government (Dhir, 2015). Men in positions of power, such as a judge, feel threatened by “nontraditional members”, i.e. women, entering their space (Dhir, 2015). The threat causes the men to act more aggressively in attempts to protect their traditional hegemony of the space, and these aggressions can manifest in the form of speech (Dhir, 2015). Zimmerman and West conducted a study that shows that in gender mixed groups, men account for approximately 96% of interruptions (1975). Observations of the groups also indicated that men assert their right to control the conversation over women and they deny women speaking opportunities (Zimmerman and West, 1975). Although this Zimmerman and West work is dated, it highlights an important gender dynamic that was definitively present in 1975 and that current research shows the framework of is still present today.

From Zimmerman and West’s study up until studies today, there has been an overwhelming trend in the literature of men interrupting women at a higher rate than that which women interrupt men (Jacobi and Schweers, 2017). More recently in 2014, Professor Adrienne Hancock and Benjamin Rubin found once again that when people are speaking to a woman they interrupt more often than when that same person is talking to a man (Hancock and Rubin, 2014). Hancock and Rubin transcribed and coded eighty 3-minute conversations and observed the gender interruption disparity (2014). Further deepening the trend of women being interrupted, Kieran Snyder recorded the same behavior in a professional setting. Snyder observed and noted interruptions at a tech company’s meetings over a one-month period. Snyder found that men were almost “three times as likely to interrupt women as they were to interrupt other men” (Snyder, 2014).

Christopher F. Karpowitz and Tali Mendelberg published research that examined gender disparities that occur during deliberations. Deliberation is a key component of a judge's job, both during and after oral arguments. While Karpowitz and Mendelberg focus on a day-to-day environment in their research, the findings can still be applied to a judicial context. Karpowitz and Mendelberg saw that during deliberation "women speak significantly less than men do and what they do say carries less weight" (2014). Their research controlled for possible confounds such as lack of sophistication or knowledge, and concludes that there are institutional mechanisms that put women at a disadvantage when it comes to expressing their opinion when in deliberation with men (Karpowitz and Mendelberg, 2014). The researchers continued on to find that the gender composition of the group affected the speaking dynamic. Women spoke the most and their opinions were taken most seriously in a group that was comprised of a majority of women (Karpowitz and Mendelberg, 2014). In contrast, women are at the greatest disadvantage in being heard and taken seriously in groups where women are in the minority (Karpowitz and Mendelberg, 2014). The findings on the influence of group composition are pertinent to the focus of my research. In the context of the Ninth Circuit the optimal situation for women, according to Karpowitz and Mendelberg, would be when at least two out of three judges on the panel were women. The worst position for a female judge to be in would be if she was the only woman on a panel with two other male judges.

Moving to more court-focused research, Jacobi and Schweers' article examined interruptions at the Supreme Court level. The findings indicated that female justices were interrupted by their male colleagues approximately three times more than were other male justices (Jacobi and Schweers, 2017). Furthermore, female justices interrupted other justices

only 4% of the time, while 32% of interruptions were of female justices (Jacobi and Schweers, 2017). At the time of their study in 2015, female justices held three of the nine seats on the Supreme Court. Jacobi and Schweers then went further, and analyzed data from 1990 and 2002 as well in order to see if the trend held when there were only one or two female justices on the Court (2017). They found that the pattern of male dominated interruptions was fairly consistent over each of the three different gender compositions of the Court (Jacobi and Schweers, 2017).

A similar court study found comparable results to the Jacobi and Schweers research. Adam Feldman and Rebecca Gill analyzed gender norms of professional speech at the Supreme Court level in their piece “Power Dynamics in Supreme Court Oral Arguments: The Relationship between Gender and Justice-to-Justice Interruptions”. The results of this study show the same pattern of female Supreme Court Justices being interrupted more than their male colleagues (Feldman and Gill, 2019). The Feldman and Gill study goes on to make the connection that interruptions of female justices by men lower the female justice’s word count in ways that interruptions by women do not (Feldman and Gill, 2019). This connection shows how not only female justices get interrupted by men more, but male justices also take up their time in oral arguments in ways that female justices do not.

The initial plan for this research was to replicate Jacobi and Schweers’ study at the Appellate Court level and compare the findings. However, the differences in procedure in each of the two courts posed an issue. In the federal appellate courts, specifically the Ninth Circuit, interruptions typically do not occur as they do in the Supreme Court. The allotted times for oral arguments are more flexible in the federal appellate courts, which leads to judges not needing to interrupt each other that often to speak. In addition, in Supreme Court oral arguments there

are nine justices fighting to have their voice heard whereas the federal appellate courts only have three judges that are trying to speak. Having fewer people fighting for the chance to ask questions or share opinions makes the need to interrupt colleagues on the panel much less pressing. In the scope of this research, judge-on-judge interruptions were seen only a handful of times on the Ninth Circuit. The lack of judge-on-judge interruptions was a stark contrast to Jacobi's research, which focused primarily on these types of interruptions. Furthermore, the research model of Jacobi's study utilized the transcripts of the oral arguments to calculate their data. The Ninth Circuit did not offer oral argument transcripts, making the research model impossible to replicate. From here I modified the study to adapt to these issues, whilst still tackling the overarching topic that was addressed in Jacobi's study: gender differences in speaking patterns.

Briefly shifting the focus to the lawyers rather than the judges, Patton and Smith conducted research at the Supreme Court level focused on differences between treatment of male and female lawyers. By analyzing over 3,000 transcripts, Patton and Smith concluded that female lawyers arguing before the Supreme Court are interrupted earlier, more often, and are overall given less time to speak than male lawyers (2017). Additionally, female lawyers are subjected to longer interruptions by the justices than male lawyers (Patton and Smith, 2017). This study helps to further solidify that gender-based interruptions are prevalent in all dialogues at the Supreme Court level.

Overall, existing research has shown a pattern of women being interrupted and conversationally dominated when they are speaking with men. In addition to the research discussed, there is an abundance of research on the topic of gender-based interruptions with

results that support this same trend. Supplementary studies are cited in the references section and in Footnote 1 for further reading if interested. These social science findings in conjunction with the results of existing work on the Supreme Court shaped the hypotheses for how gender would affect speaking patterns in the Ninth Circuit.¹

Hypotheses

Six hypotheses were deduced based on the existing research in the areas of gender relations and the federal courts. The six hypothesis are grouped in to three pairs of two in order to measure male and female speaking in two different ways. In each pair, one of the hypothesis predicts the frequency of interruptions and the other hypothesis predicts the portion of case time that will be taken up. The hypotheses are designed this way to measure both how often each gender speaks and also for how long. The implication of results could be very different if men interrupt women twenty times but for only two seconds at a time versus if men interrupted women only ten times but for three minutes each time, hypothetically speaking. The hypotheses all stem from the previous research that illustrates how men are more comfortable taking up a woman's time to speak and talking over them than they are other men. The pattern indicated by existing research of men interrupting women at a higher rate and being more conversationally dominant played a role in formulating each of the six hypotheses for this study.

1

(Anderson and Leaper, 1998); (Chira, 2017); (Clarke, J., Clarke, D., and Clark, S., 1993); (Coates, 2014); (Cutler and Scott, 1990); (Kennedy and Camden, 1983)

H1: When there is one or more female judge on the panel, male judges speak for a larger portion of the overall case time than women do. Hypothesis one ties in existing work that has shown that men typically interrupt women at a higher rate than other men. Research conducted by Hancock and Rubin as well as by Zimmerman and West highlight the high frequency of men interrupting women over other men, which forms a basis for hypothesis one. Research by Dhir and Snyder also indicated the prevalence of male dominated interruptions, further supporting hypothesis one. It can be assumed that the underlying factor of each of these studies that show men interrupting women is that men are more comfortable taking up a woman's time than they are taking up another man's time. Having one or more female judge on the panel would lead to a male judge speaking for a larger portion of time since he is put in a position where he would be taking up a woman's time rather than taking up a man's time.

H2: When there is one or more female judge on the panel, male judges speak more often than female judges on the panel. Hypothesis two draws upon the research results that have shown how men are typically conversationally dominant over women. In order to dominate a conversation, one must speak more often. The need to keep control of what is perceived as their space and the direction of the argument would lead a male judge to speak more than a female judge who does not have that same need. Men controlling their "traditional space" by using aggressive behavior supports hypothesis two, as interruptions are a form of aggressive speech (Dhir, 2015). The work on conversational dominance conducted by Zimmerman and West showed that men attempt to control conversation and deny women the chance to speak when they are present, which would be the case if there was a female judge on

the panel (1975). The denying of female judges to speak would then lead to the male judges speaking more often.

H3: Male judges interrupt female lawyers more often than they interrupt male lawyers. The proceedings of the Ninth Circuit operate in such a way that judge-to-judge interruptions are not very common. The majority of interruptions are judges interrupting lawyers, making the gender of the lawyer relevant in the context of this study. The basis for hypothesis three is much like the basis for hypothesis one. Once again, it is expected that men interrupt women more often than they interrupt men. In this case, the interruptions are of male and female lawyers rather than judges. Once again we can look at work done by Zimmerman and West, Hancock and Rubin, and Snyder that show the higher frequency at which men interrupt women than they interrupt men. Patton and Smith's study on the Supreme Court showed that female lawyers get interrupted more often than male layers, leading to the expectation of the same results in the Ninth Circuit (2017).

H4: Male judges speak longer when they interrupt female lawyers than when they interrupt male lawyers. The tendency to conversationally dominate women, as seen in previous work by Zimmerman and West and Dhir, would play a role in hypothesis four as well. Speaking longer when interrupting female lawyers would be due in part to men being more comfortable taking up a woman's time than a man's. Additionally, Patton and Smith's work regarding the Supreme Court illustrated that female lawyers get interrupted more often than male lawyers and these interruptions last longer than the ones their male colleagues are subjected to (2017). Patton and Smith's work supports both hypothesis three and four.

H5: When a female judge has more women on the panel she will speak more often than if she is with all male judges. Hypothesis five is based on previous results by Karpowitz and Mendelberg that indicate that women are more comfortable speaking up in a group if they are in the majority (2014). Being surrounded by other women, it would be expected that this scenario would lead to the female judges being comfortable enough to speak more often. Having a female majority would only require two of the three judges to be women, but one could infer that a panel of all female judges may amplify the findings of Karpowitz and Mendelberg and lead to female judges speaking the most often of all of the panel configurations.

H6: When a female judge has more women on the panel she will speak for a longer total amount of time than if she is with all male judges. Hypothesis six also depends on the findings that women speak more often when they are in the majority of a gender mixed group. In addition to these findings, Karpowitz and Mendelberg also found that women are taken more seriously by other women than they are by men. Feeling that your opinions and questions are being taken seriously could lead to female judges being more comfortable to continue talking, thus making them speak longer. Furthermore, female judges will be able to speak for a longer amount of time when they do not have a male judge that is either taking up the time with his own comments or directly interrupting her.

Research Method

The sample used included 402 videos of recorded oral arguments in the Ninth Circuit. The videos were comprised of all of the oral arguments in the Ninth Circuit during the year

2018 that had no visiting judges on the case panel. A visiting judge is a judge that does not hold a seat on the Ninth Circuit, but “visits” to hear a case. It is incredibly common for the Ninth Circuit to have visiting judges, as there were hundreds in the case data from 2018. The choice not to include cases with visiting judges was due to the possibility that their status as a visiting judge would influence a judge not to speak, which would create a confound for the data. Other cases that were excluded from the sample were those that had an irregularity such as having only two judges on the panel out of three and those that had a technical issue with the video.

The process of obtaining the data involved watching each of the videos in the sample and recording how many times and for how long each judge spoke during the oral argument. The speaking segments were noted as “interruptions”, however it must be mentioned that the judges were interrupting the lawyers, not the other judges on the panel, when they spoke. Such interruptions are the only way they are able to speak during the arguments. Each individual judge on the Ninth Circuit was given a number in order to keep the panel members organized. When an interruption was recorded, the entry included: the identifying number of the judge who spoke, the gender of the judge who spoke, what time they started and ended speaking, the length of the interruption, the gender of the lawyer the judge interrupted to speak, and the side the lawyer represented that the judge interrupted to speak.

The data sheet for each case includes the gender composition of the case panel, the amount of time each judge spent interrupting the lawyers on each side of the case being argued, the number of times the judge interrupted each lawyer, the name of the case, the docket number of the case, and the total length of time of each case. The oral argument lengths in the Ninth Circuit vary, and are not a consistent thirty minutes per side like the

Supreme Court. Oral arguments in the Ninth Circuit typically have an allocated time from ten minutes for each side to thirty minutes for each side. However, this initial allocation often varies in practice if either the time is not completely exhausted by the lawyer's argument or if the judges' questioning exceeds time. The Ninth Circuit gives more discretion to the presiding judge on deciding if a case can exceed the allotted argument time, and the judges are allowed to interrupt the lawyers at will. Although the arguments do vary in length, the amount of time allotted to each individual side within a given case is generally about equal. Other than exceeding allotted time, oral arguments at the federal appellate court level operate very similarly to how they operate in the Supreme Court. Questioning of lawyers by judges can start at any time and can be as frequent and as lengthy as the presiding judge allows. Consider that the presiding judge typically allows everything, so the judges essentially have free rein of directing oral arguments.

The program IBM SPSS Statistics Version 26 was used to translate the coded Excel sheet into data that was able to be utilized for the research and analysis. Conducting the researching using this method was the most logical option because the videos allowed for a clear visual distinction between who was talking and the gender of the person speaking. As aforementioned, federal appellate courts do not have public transcripts of oral arguments. This made audio recordings the only choice for documentation of oral arguments for all courts, except for the Ninth Circuit that had recently implemented video recordings. The videos also enabled the nonverbal communication during oral arguments to be taken in to account, a factor that audio and transcript recordings do not provide. Some of these nonverbal communication aspects include posture, facial expressions, hand movements and gestures, and

a context for the inflection or tone of a judge's voice. The potential implications of having a research method that includes this nonverbal element will be discussed further in coming sections.

Results

Overall, trends show that on average female judges interrupt more often than male judges and that female judges speak for a larger percentage of the argument than male judges. Table 1 shows that female judges speak 0.47 times per minute of argument where male judges speak 0.39 times per minute of argument. Female judges speaking takes up 9.91% of the arguments total length and male judges speaking takes up 9.14% of the arguments total length. These findings relate in part to hypotheses one and two which predict patterns of male and female speaking frequency and length.

Group Statistics				
	Avg. Number of Interruptions per Minute	Avg. Speaking Length as % of Argument	Standard Deviation: Number of Interruptions	Standard Deviation: Speaking Length
Male Judges	0.39	9.14	0.38	9.47
Female Judges	0.47	9.91	0.40	8.41

Table 1

When looking at the pattern of interrupting lawyers, Table 2 shows that female judges interrupt male lawyers slightly more often than they interrupt female lawyers. Female judges interrupt male lawyers 0.48 times per minute and interrupt female lawyers 0.45 times per minute. Female judges also speak for a longer period of time when interrupting male lawyers. Female judges speak for 10.11% of the argument when interrupting a male lawyer, and 9.52%

of the argument when interrupting a female lawyer. Male judges are more equal with their interruptions, but still interrupt male lawyers slightly more often than female lawyers. Male judges interrupt male lawyers 0.40 times per minute and interrupt female lawyers 0.39 times per minute. Male judges also speak for a slightly longer period of time when interrupting male lawyers. Male judges speak for 9.26% of the argument when interrupting a male lawyer, and 9.07% of the argument when interrupting a female lawyer. Hypotheses three and four predicted judge behavior towards lawyers.

Data on Lawyers				
	Interruptions Per Minute: Female Lawyers	Interruptions Per Minute: Male Lawyers	Interruptions as % of Argument: Female Lawyers	Interruptions as % of Argument: Male Lawyers
Male Judges	00.39	00.40	09.10	09.26
Female Judges	00.45	00.48	09.52	10.11

Table 2

We turn now to the variations of speaking patterns when there are different gender compositions on the panel. This data is illustrated in Table 3 and Table 4. When a panel is comprised of all men, the men interrupt 0.43 times per minute and speak for 10.24% of the length of the argument. When we add one female judge to the panel, making the composition two men and one woman, male judges drop down to interrupting 0.37 times per minute and taking up 8.38% of the argument time. Adding an additional woman to the panel, making the composition two women and one man, changes the number of male interruptions per minute to 0.39 and the length of argument taken up to 9.50%. For female judges, they speak the most often when there are two women on the panel, at 0.50 times per minute. The average number of times speaking per minute is approximately equal between when the panel is all women and when there is only one woman on the panel, at 0.45 times per minute. Female judges speak for

the largest portion of the argument when there are two women on the panel, at 10.27% of the argument length. Women speak for the smallest portion of the argument when the panel is all women, at 9.67% of the length of the argument. Hypotheses five and six predicted how the gender composition of the panel would affect the speaking patterns of male and female judges. Hypotheses one and two also deal with gender composition of the panel affecting judges' speech patterns.

Panel Composition Statistics: Average Number of Interruptions Per Minute				
	0 Women on Panel	1 Woman on Panel	2 Women on Panel	3 Women on Panel
Male Judges	0.43	0.37	0.39	-
Female Judges	-	0.45	0.50	0.45

Table 3

Panel Composition Statistics: Average Speaking Length as % of Argument				
	0 Women on Panel	1 Woman on Panel	2 Women on Panel	3 Women on Panel
Male Judges	10.24	08.38	09.50	-
Female Judges	-	09.71	10.27	09.67

Table 4

When considering how individual judges affect the averages, we can see in Table 5 and Table 6 that the one judge that interrupts the most often and on average speaks for the largest percent of the argument is male. However, the judge that interrupts the second most often and speaks for the second largest percent of the argument is a female. There are not any clear outlier judges that would skew the group statistics so much so that the averages would not be representative. The most talkative judges, both male and female, most definitely stood out when watching the oral arguments. The judges that spoke the least often, or not at all in Judge Fernandez's case, typically did not stand out because their silence would be filled by questioning by the other two judges. It did not seem that having one quiet judge on the panel

made an oral argument length any shorter than average, however, having one talkative judge on the panel seemed to definitely make an oral argument longer than average.

Individual Judge Averages: Female		
Judge Name	Avg. Number of Interruptions	Avg. Total Speaking Time in Arguments (Seconds)
Marsha S. Berzon	16.96	196.86
Morgan Christen	11.93	135.39
Mary H. Murguia	10.33	144.54
Michelle T. Friedland	09.44	084.00
Consuelo M. Callahan	07.76	138.78
Sandra S. Ikuta	06.79	105.00
Kim McLane Wardlaw	06.24	075.83
Susan P. Graber	06.09	102.41
M. Margaret McKeown	05.73	086.79
Johnnie B. Rawlinson	05.15	048.28
Jaqueline H. Nguyen	02.92	057.71
Mary M. Schroeder	02.92	027.33
Dorothy W. Nelson	02.04	027.59

Table 5

Individual Judge Averages: Male		
Judge Name	Avg. Number of Interruptions	Avg. Total Speaking Time in Arguments (Seconds)
Andrew D. Hurwitz	17.05	250.78
Richard C. Tallman	11.71	190.00
Andrew J. Kleinfeld	10.94	184.08
N. Randy Smith	10.26	196.38
William A. Fletcher	07.98	103.13
Jay S. Bybee	07.91	082.14
Milan D. Smith Jr.	07.60	128.50
Richard A. Paez	07.25	072.03
Richard R. Clifton	05.71	080.67
Paul J. Watford	05.32	092.59
J. Clifford Wallace	05.18	066.75
A. Wallace Tashima	04.71	054.72
Sydney R. Thomas	04.55	055.84
Mark J. Bennett	04.45	067.35
Carlos T. Bea	04.25	051.92

Stephen Roy Reinhardt	3.95	65.70
Diarmuid F. O'Scannlain	3.85	32.70
Michael Daly Hawkins	3.56	32.97
Jerome Farris	3.50	36.50
John B. Owens	2.56	38.28
Ronald M. Gould	1.71	39.00
Raymond C. Fisher	1.60	32.99
Ferdinand F. Fernandez	0.00	0.00

Table 6

When observing the data as it was being recorded, the statistical differences between men and women for each of the six hypotheses were not noticeable. It seemed as though men and women spoke rather equally as often as each other, and for rather equal portions of time. While the data does show differences, in practice it seemed as though the judges on the Ninth Circuit operate quite gender-equal during oral arguments. There was not a visible dominance of interruptions by either male or female judges.

Discussion

In relation to previous research, the results are contradictory. Four out of the six hypotheses were proven to be false, and the remaining two out of six were only true to a certain extent. Male judges do not speak for a larger portion of the overall case time than women do when there is one or more female judge on the panel, disproving hypothesis one. Male judges do not speak more often than female judges on the panel when there is a female judge present, disproving hypothesis two. Male judges interrupt male lawyers more than female lawyers, disproving hypothesis three. Male judges speak longer when they interrupt male lawyers than when they interrupt female lawyers, disproving hypothesis four. Hypotheses five and six were true when comparing how female judges act when there is one woman on the

panel versus when there are two women on the panel. Female judges do speak more often and for a longer portion of time where there are two women on the panel than where there is only one woman on the panel. However, this trend does not hold true when looking at a panel of all three women. In fact, when a panel is all women the female judges speak the least number of times of any of the scenarios and speak for the smallest portion of time.

Based on the patterns of men interrupting women found in existing research, the gender dynamic of the Ninth Circuit is surprising. The work by Karpowitz and Mendelberg proved to be the most accurate when looking at the Ninth Circuit, but was still only similar to an extent. Karpowitz and Mendelberg showed that women spoke the most if they had a majority in a gender-mix group, and this held true when comparing the speaking times for women alone on a panel with two men versus two women on a panel with one man. However, Karpowitz and Mendelberg found that women in the minority of a mixed group would speak the least, and in the Ninth Circuit it was actually an entirely female panel that produced the lowest speaking times for women. The analysis in the Karpowitz and Mendelberg study was focused on mixed-gendered groups however, so a completely female group was not within the scope of their research which makes the comparison of the all-female panel less applicable.

Although the tested hypotheses and data showed unpredicted results, there were other patterns that can be seen in the video recordings of the Ninth Circuit. These observations were not expected so there is no quantifiable data to support them, but nonetheless I believe they are worth mentioning. First and foremost, the composition of the court at the time of this study was 69% male and only 31% female. Women account for half of the US population and still only comprise just under one-third of what has been deemed the most liberal federal appellate

court in the country. During the research process itself, the method of data collection was to watch videos of oral arguments which allowed me to witness factors such as mannerisms and nonverbal aspects of communication.

Nonverbal communication constitutes anything that is not the words of a message themselves. This can be tone, inflection, volume, facial expressions, hand movements, etc., all of which I saw when watching the video recordings. The combination of the verbal and nonverbal messages helped to clearly show the intent of the interactions in the court room. I noticed that male judges were more condescending and aggressive with their questioning of the lawyers than female judges. This observation was based on the tone and demeanor of the judge during the questioning, as well as the types of questions they asked. The condescending questions would be daunting, almost as if to question whether the lawyer was qualified to be there and truly knew what they were doing. This pattern certainly did not hold true for all male judges, but there were multiple male judges that stood out as particularly harsh. Female judges used more passive language such as “pardon me for interrupting” or apologizing, where male judges would simply state their question. Female judges also seemed more willing to let a lawyer finish their statement before proceeding with questioning as opposed to cutting the lawyer off mid-sentence. Once again, this is an overall trend and did not hold true for each individual case. Although these observations are subjective, they add to the dialogue on this topic and provide an opportunity for potential future research.

Conclusion

The results of this study add a different perspective to existing literature on gender dynamics. The results were contradictory to similar research, specifically the Jacobi and Schweers Supreme Court study, which opens the opportunity for theories on why the pattern in the Supreme Court may not hold true for all of the US federal courts. The Ninth Circuit having forty-two judges that rotate allows for a larger sample of panel interactions, thus making the results more generalizable to the real world. The fact that male dominated gender dynamics do not seem to be as present in the Ninth Circuit as they are in other institutions leads me to be hopeful that the United States is moving towards a more equal future in terms of workplace interactions. The results also show that women are confident in themselves and their knowledge which enables them to speak up even when surrounded by men who traditionally have dismissed female opinions. The results of this research point to a better future for women and give an institutional model that other areas of the United States can look towards.

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